United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	Case No. 4:05cr173
	§	(Judge Schneider)
EUGENE GRIFFIN, SR. (3)	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 17, 2010, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Chip Roy.

On October 18, 2006, Defendant was sentenced by the Honorable Michael H. Schneider to fifty-one (51) months' custody followed by three (3) years of supervised release for the offense of Conspiracy to Distribute or Dispense or Possess with Intent to Distribute or Dispense Cocaine Base and Marijuana. On March 17, 2008, Defendant's term of imprisonment was reduced to thirty-seven (37) months. On June 5, 2008, Defendant completed his period of imprisonment and began service of his supervised term.

On January 29, 2010, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following conditions: (1) the defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month; (2) the defendant shall refrain from any unlawful use of a controlled substance and the defendant shall submit to one drug test within fifteen days of release from imprisonment and at

least two periodic drug tests thereafter, as directed by the probation officer; (3) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (4) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

The petition alleges that Defendant committed the following acts: (1) the defendant failed to submit written monthly reports for the months of December 2008, January, May, June, September, October, and December 2009 within the first five days of the month; (2) the defendant submitted a urine specimen on February 17, 2009, that tested positive for cocaine; and (3) the defendant failed to notify the U.S. Probation Office of his arrest on January 4, 2010. During an unscheduled home visit on January 12, 2010, the defendant notified his officer of the arrest.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations based upon the agreement that the Government would dismiss some of the violations and the agreement to a seventeen-month sentence.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seventeen (17) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 18th day of March, 2010.

AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE